

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, et al.,

Plaintiff,

v.

UNITED STATES DEPARTMENT
OF LABOR; and EUGENE SCALIA,
*in his official capacity as Secretary of
the United States Department of Labor,*

Defendants.

20 Civ. 3020

**NOTICE OF MOTION
(Fed. R. Civ. P. 56, 5 U.S.C. § 706)**

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 56, Plaintiff hereby moves the Court for summary judgment with respect to the claims for relief in Plaintiff's complaint in this action. *See* Compl. ¶¶ 114-126 (ECF No. 1).

Plaintiff requests that the Court declare that the challenged provisions of the Final Rule are not in accordance with law within the meaning of 5 U.S.C. § 706(2)(A); declare that the challenged provisions of the Final Rule are in excess of the Department's statutory jurisdiction, authority, or limitations, or short of statutory right within the meaning of 5 U.S.C. § 706(2)(C); sever and vacate each of the challenged provisions; and grant other such relief as this Court may deem proper.

In support of this motion, Plaintiffs rely on the accompanying Memorandum of Law; the pleadings and papers on file in this action; and any argument and evidence that is presented on the hearing of this motion.

DATED: April 14, 2020

Respectfully submitted,

LETITIA JAMES

Attorney General of the State of New York

By: /s/ Matthew Colangelo

Matthew Colangelo

Chief Counsel for Federal Initiatives

Eric R. Haren, *Special Counsel*

Fiona J. Kaye, *Assistant Attorney General*

Daniela L. Nogueira, *Assistant Attorney General*

Office of the New York State Attorney General

28 Liberty Street

New York, NY 10005

Phone: (212) 416-6057

Matthew.Colangelo@ag.ny.gov

Attorneys for the State of New York